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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,838	09/24/2003	Gregory J. Wood	500800-1015	4426

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EXAMINER

KING, ANITA M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,838

Applicant(s)WOOD ET AL. **Examiner**

Anita M. King

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10 and 12 is/are rejected.
- 7) ☒ Claim(s) 3 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This is the first office action for application number 10/669,838, Refuse Bag Supporting Device, filed on September 24, 2003.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

The drawings are objected to because reference number "56" (top right) in Fig. 10 appears to be incorrect and should be --58'--. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement

Art Unit: 3632

sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informality: reference number "60" cited on page 18, lines 16 and 17, page 19, lines 5, 7, 9, 11, 17, and 18, and page 20, lines 4, 7, and 9 appears to be incorrect and should be --54--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,304,378 to Briggs in view of U.S. Patent 3,838,838 to Seaman, Jr., hereinafter, Seaman. Briggs discloses a refuse bag supporting device (100) comprising: a plurality of refuse bag supporting members (122, 124, 125, 129); a

Art Unit: 3632

plurality of corner members (121, 123) joining the refuse bag supporting member end to end to define a refuse bag supporting frame; a plurality of legs (30) for positioning the refuse bag supporting frame in a plurality of orientations; means (28) for supporting each of the legs on the frame for pivotal movement with respect thereto between a first orientation wherein the leg extends perpendicularly relative to the frame at a second orientation wherein the leg extends parallel relative to the frame; wherein the means for pivotally supporting the legs on the frame includes a plurality of L-shaped members each extending between one of the corner members (123) of the frame and one of the legs (30); and means (50) for securing a refuse bag in engagement with the frame.

Briggs discloses the claimed invention except for the limitation of the legs having a relatively large diameter tubular member and a relatively small diameter tubular member which is slidably received in the relatively large diameter tubular member and a means for selectively retaining each of the legs in extended and retracted configurations. Seaman teaches a holder having a plurality of legs for positioning, wherein the legs each comprise a relatively large diameter tubular member (17) and a relatively small diameter tubular member (18) which is slidably received in the relatively large diameter tubular member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the legs in Briggs to have included the telescoping arrangement as taught by Seaman for the purpose of providing legs that can be employed in a wide range of locations and in areas where floor space is relatively limited.

Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,076,782 to Alderman in view of U.S. Patent 4,562,983 to Klefbeck.

Alderman discloses a refuse bag supporting device comprising: a plurality of refuse bag supporting members (12, 13, 14, 15); a plurality of corner members (16) joining the refuse bag supporting member end to end to define a refuse bag supporting frame (10); a plurality of legs (21, 22) for positioning the refuse bag supporting frame in a plurality of orientations; means (23) for supporting each of the legs on the frame for pivotal movement with respect thereto between a first orientation wherein the leg extends perpendicularly relative to the frame at a second orientation wherein the leg extends parallel relative to the frame.

Alderman discloses the claimed invention except for the limitation of the legs having a relatively large diameter tubular member and a relatively small diameter tubular member which is slidably received in the relatively large diameter tubular member and a means for selectively retaining each of the legs in extended and retracted configurations. Klefbeck teaches a bag holder having a frame member (10) and a plurality of legs (8) connected to the frame member by a pivotal hinge (12), and wherein the legs each comprise a relatively large diameter tubular member and a relatively small diameter tubular member which is slidably received in the relatively large diameter tubular member; and means for selectively retaining each of the legs in an extending configuration and in a retracted configuration relative to the frame and wherein the means for selectively retaining comprises bayonet connectors (14). It would have been obvious to one having ordinary skill in the art at the time the invention

Art Unit: 3632

was made to have modified the legs in Alderman to have included the legs as taught by Klefbeck for the purpose of providing legs that telescope to facilitate the stable use of the device on unlevelled terrain.

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Briggs combined with Seaman and in further view of U.S. Patent 6,752,729 to Huang. Briggs combined with Seaman disclose the claimed invention except for the limitations of the supporting members being secured to the corner members by bayonet connectors, the L-shaped members are secured to the corner members by bayonet connectors, the legs being secured to the L-shaped members by bayonet connectors, and the means for selectively retaining each leg comprising bayonet connectors. Huang teaches a connection member for connecting parts of a frame assembly, wherein the frame assembly has an extension tube (31) and a horizontal section (10) connected to each other by a connector member (20) having a protrusion (21) receivable in holes (11, 32) of the tube and section. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the frame in Briggs combined with Seaman to have included the connector members as taught by Huang for the purpose of providing a means for quickly assembling the frame and for detaching the frame into sections which is convenient for storage; and for providing an easier, alternative, and mechanically equivalent means adjusting the telescopic arrangement of the legs.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alderman combined with Klefbeck and in further view of Huang. Alderman combined with

Art Unit: 3632

Klefbeck disclose the claimed invention except for the limitation of supporting members being secured to the corner members by bayonet connectors. Huang teaches a connection member for connecting parts of a frame assembly, wherein the frame assembly has an extension tube (31) and a horizontal section (10) connected to each other by a connector member (20) having a protrusion (21) receivable in holes (11, 32) of the tube and section. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the frame in Alderman combined with Klefbeck to have included the connector members as taught by Huang for the purpose of providing a means for quickly assembling the frame and for detaching the frame into sections which is convenient for storage.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alderman combined with Klefbeck and in further view of U.S. Patent 4,069,993 to Shanks. Alderman further discloses that a refuse bag (90) is affixed to the frame by dropping the bottom of the bag through an opening (11) in the frame and a lip (91) of the bag is stretched so that it can be rolled over the perimeter of the frame. Alderman combined with Klefbeck disclose the claimed invention except for the limitation of a means for securing a refuse bag in engagement with the frame. Shanks teaches a refuse bag supporting device having a frame (10) including means for securing a refuse bag (22) in engagement with the frame, wherein the means for securing comprises a plurality of projections (18) mounted on the frame and a plurality of flexible retaining members (30) each individual to one of the projections for securing the refuse bag in engagement therewith. It would have been obvious to one having ordinary skill in the

Art Unit: 3632

art at the time the invention was made to have modified the device in Alderman combined with Klefbeck to have included the means for securing a refuse bag as taught by Shanks for the purpose of providing a simple and effective means for holding the bag in a hanging position with its mouth held open.

Allowable Subject Matter

Claims 3 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 1,542,164 to Nelson

U.S. Patent 2,451,829 to Hightower

U.S. Patent 4,684,087 to Spickard

U.S. Patent 5,180,126 to Bennett

U.S. Patent 5,308,027 to Fullilove

U.S. Patent 6,199,802 to Scheibe, Sr.

U.S. Patent 6,676,092 to Tsai

Nelson discloses a bag holder having adjustability. Hightower discloses an adjustable sack holding frame. Spickard discloses a bag holder made up principally of at least


Art Unit: 3632

partially tubular components. Bennett discloses an adjustable leaf caddy. Fullilove discloses a leaf bagger composed of an adjustable frame. Scheibe, Sr. discloses a collapsible trash bag holder. Tsai discloses a size adjustable trash bag holder.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anita M. King
Primary Examiner
Art Unit 3632

October 29, 2004